HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWP No. : 1778 of 2007.
Reserved on: 6.12.2007.
Decided on: 27.12.2007.

L.R. Institute of Management ..... Petitioner.

Versus

State of Himachal Pradesh and others .....Respondents.

Coram:

The Hon'ble Mr.Justice Deepak Gupta, Judge.
The Hon'ble Mr.Justice V.K. Ahuja, Judge.

Whether approved for reporting? Yes.

For the petitioner:	Mr.J.L. Bhardwaj, Advocate.
For respondent No.1:	Mr.M.S. Chandel, Advocate General, with Mr.R.M. Bisht, Deputy Advocate General.
For respondents No.2 & 3:	Mr.V.D. Khidta, Advocate.

Per V.K. Ahuja, J:

This judgment shall dispose of the writ petition filed by the petitioner under Articles 226/227 of the Constitution of India praying therein for issuance of directions to the respondents to sponsor candidates for filling up the remaining 39 seats for M.C.A. Course imparted by the petitioner or in the alternative the petitioner may be permitted to fill up the remaining vacant seats on the basis of the marks obtained in the qualifying examination.

The brief facts of the case are that the petitioner is an educational institution imparting education in various courses including M.C.A. Petitioner-Institute was granted recognition for imparting additional course of three years

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Whether reporters of local newspapers may be allowed to see the judgment? Yes.

degree of Master in Computer Application by the All India Council for Technical Education (hereinafter to be referred as AICTE). The recognition was granted by the AICTE with an annual intake capacity of 60 seats as per letter dated 27.7.2007. It was further alleged that the provisional affiliation to run MCA course for the academic session 2007-08 with intake capacity of 60 seats was granted on 3.9.2007. It was alleged that respondent No.2 had conducted the entrance test for sponsoring the candidates to petitioner-Institute but only a few candidates could qualify the entrance test. It was further alleged that despite conducting the entrance test, respondent No.2 University has sponsored only 21 candidates to petitioner-Institute for imparting MCA course whereas the intake capacity for the aforesaid course granted by the AICTE was 60 students.

The petitioner further alleged that respondent No.2 had permitted admissions to LL.B. Course as well as B. Pharmacy Course by relaxing the condition of entrance test and the students were admitted on the basis of marks obtained in qualifying examination and, therefore, the same yardstick should be applied to the petitioner-Institute and either the remaining 39 students should be sponsored by taking fresh entrance test or students should be permitted to be admitted by the petitioner-Institute on the basis of marks obtained in the qualifying examination, as has been done with respect to other courses.

In reply by respondents No.2 and 3, they admitted that the petitioner was entitled to admit 60 students. They further pleaded that they had conducted the counseling for MCA Course for petitioner-Institute firstly on 13th October, 2007 and secondly on 14th October, 2007, as per the criteria laid down in the Hand Book of Information. It was further submitted that the candidates were accordingly sponsored to the petitioner-Institute as per the merit of the

entrance test. However, since the date-sheet for the conduct of examination of MCA Course 1st Semester has already been issued and the examination has to start w.e.f. 28th November, 2007, all the students admitted in the MCA Course are required to complete 75% lectures and the Institution had to conduct classes at least for 180 days. Thus, the students cannot be sponsored at this stage by having fresh entrance test or permitting the petitioner-Institute to admit the students. They also pleaded that in case of LL.B.Course, as per Ordinance 1.4 of the Himachal Pradesh University First Ordinances, 1973, the Vice Chancellor was entitled to allow admission to LL.B./B.A. LL.B. (Hons.) Courses to be made on academic merit and, therefore, same criteria cannot be applied for admission to MCA Course. The respondents in their reply also relied upon the judgment of this Court in Dreamz College case that no counseling can be permitted after the last date and no students can be admitted midstream even if the seats are unfilled.

We have heard the learned counsel for the parties and have gone through the pleadings of the parties also.

It is clear that the same criteria, as applied to LL.B. Course, cannot be applied to MCA Course since there is a specific provision in the Ordinance which permitted the Vice Chancellor to relax the condition and admit students on the basis of marks obtained in an entrance examination.

Coming to the decision of this Court in CWP No.1397 of 2007, titled Dreamz College of Pharmacy and another v. State of H.P. and others, decided on 14.9.2007, it was held that the academic calendar prepared by the University or any other educational institution has to be strictly adhered to and no midstream admissions can be permitted. Therefore, no relaxation can be made and the time table for the courses have to be adhered to and no permission can be given

at this belated stage to the University to conduct fresh entrance test or permitting the petitioner-Institute to admit the students on the basis of qualifying marks since there is no such provision for admission to the MCA Course. Moreover, the prayer made during the course of the arguments by the learned counsel for the petitioner-Institute that the petitioner-Institute is ready to bear the expenses for holding of a separate examination for MCA Course cannot be accepted and no such permission can be granted to hold a separate entrance test for the students now to be admitted on the basis of entrance test or qualifying marks since the minimum number of lectures have be completed. Thus, there is no merit in the writ petition filed by the petitioner-Institute which is liable to be dismissed and the same is dismissed accordingly.

In view of the final disposal of the main petition, all the pending applications shall also stand disposed of.

(Deepak Gupta),
Judge.

(V.K. Ahuja),
Judge.

December 27, 2007. (TILAK)